

Remarks

In the Office Action dated March 20, 2009, the abstract of the disclosure was objected to. Applicants hereby amend the abstract to be 74 words long. This amendment lengthens the abstract so that it falls within the acceptable range of word length of 50 to 150 words, as defined in MPEP § 608.01(b).

In the same Office Action, the specification was objected to. Applicants hereby amend the specification to identify the sequences by the proper sequence identifiers.

In the same Office Action, claims 1-18 were pending. Claims 1-18 were rejected. Claims 10, 15, and 17 were objected to. Claims 1, 4, 6-8, 10 and 12-18 are amended herein. New claims 19-26 have been added and are included. No new matter has been added by these amendments. Reconsideration of the claims is respectfully requested in view of the following remarks.

Claim Objections

The Examiner objected to claims 10 and 15 because “-” was missing after “D” and “L”. Claims 10 and 15 now contain a “-” after the “D” and “L”. Claim 17 was objected to because claim 14 was not drawn to an oxidase. Claim 17 now depends from claim 16, which is drawn to an oxidase.

Rejections Under 35 U.S.C. §112, Second Paragraph – Indefiniteness

The Examiner rejected claims 1-18 as being indefinite. The Examiner suggests to add to claim 1 a step to select for plants with male or female sterility. Applicants have amended claim 1 to include a step of selecting for the plant comprising either male or female reproductive structures. Applicants believe these amendments to overcome the Examiner’s rejection and respectfully request that this rejection be withdrawn.

Rejections Under 35 U.S.C. §112, First Paragraph – Written Description

The Examiner rejected claims 1-18 as failing to comply with the written description requirement. While Applicants disagree with the Examiner’s position, in the interest of expedited prosecution, Applicants have amended claims 1, 12, 13, 16, and 18 originally directed to “an oxidase *obtained* from *Rhodotorula gracilis*” to “an oxidase *derived* from *Rhodotorula gracilis*”

(emphasis added). Support for this amendment can be found in the specification on page 7, lines 27-28: "The mutant D-amino acid oxidase (DAMOX) enzyme may, for example, be derived from those produced by *Rhodospiridium* sp. (*Rhodotorula* sp.) ...". Further support can be found on page 21, lines 28-29: "... the present invention provides a double mutant form of *Rhodotorula gracilis* D-amino acid oxidase ...". The person skilled in the art would readily recognize that "a double mutant form" clearly indicates the mutant enzyme is derived from its natural source. Applicants believe these amendments to overcome the Examiner's rejection and respectfully request that this rejection be withdrawn.

Conclusions

Applicants respectfully submit that all outstanding issues in the present case have been addressed in this paper. The Examiner is invited and encouraged to call the undersigned attorney for Applicants at 919-765-5117 in the event that issues remain unresolved by this response and could be discussed via telephone for clarification.

Respectfully submitted,



S. Matthew Edwards
Attorney for Applicants
Reg. No. 55,141
Phone: (919) 765-5117

Syngenta Biotechnology, Inc.
Patent Department
Post Office Box 12257
Research Triangle Park, NC 27709-2257

Date: June 19, 2009